86-249

AUG 4 1986
JOSEPH F. SPANIOL, JR.
CLERK

No.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

MICHAEL R. AND IRENE S. ATRAQCHI

Petitioners,

v.

FOUR UNKNOWN NAMED AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION, et al.

Respondents,

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

APPENDIX

Michael R. Atraqchi
Irene S. Atraqchi
5420 Deadwood Drive
Billings, Mont. 59105
Pro se

29pp

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA -BILLINGS DIVISION

MAJIF RASHEED (MICHAEL) ATRAQCHI and IRENE S. ATRAQCHI,

Plaintiffs,

vs.

FOUR UNKNOWN NAMED AGENTS OF THE FBI et, al.

Defendants,

CV 84 - 256BLG

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

On this 26th day of April, 1985, a hearing on plaintiffs Motion for Notice of Motion For Hearing on Preliminary Injunction Pertaining to Wiretapping Electronical Surveillance, Psychological Manipulation, Freedom to Obtain Legal Counsel, and Conspiracy was heard by the Honorable Judge James F. Battin. Plaintiffs appearing without counsel and defendants appeared

with counsel. Testimony and evidence was taken from witnesses. This court based on the testimony and evidence heard makes the following:

FINDINGS OF FACT

1. Plaintiffs are not represented by counsel due to the fact that the plaintiffs are unable to obtain a legal counsel. Defendants and others in the conspiracy exerted extreme influence on the attorneys contacted.

2. Plaintiffs believe Insurance Company (plaintiffs' business) phone and home phone were wiretapped with results clients were discouraged from purchasing insurance from plaintiff, Mike Atraqchi's Agency. As a result there was a loss of employment from all Insurance Companies, and Insurance income dropped.

3. Plaintiffs believed their business and home phones were wiretapped. As a result, plaintiffs had to start using pay tele-

phones since 1980. Plaintiffs believe defendants used telephone equipment to pickup conversations in the house. As a result plaintiffs had both telephones removed.

4. A building was built for a restaurant at 655 Main. Plaintiffs have been unable to open it for three years due to harassment and threats. Also plaintiffs need a telephone to operate a business. Plaintiffs have severed interest plus business income.

5. Plaintiffs have put property for sale several times and tried to leave the area. Plaintiffs believe defendants interferred in the sale of their property.

6. Plaintiffs have been harassed and threatened while taking classes at Eastern Montana College. Although Irene Atraqchi had only 1½ quarters left to obtain a degree, she dropped because of harassment from the students and staff. Plaintiffs believe defendants used students to ha-

rass plaintiff, Irene Atraqchi.

7. Plaintiffs believe Brenda Atraqchi was psychologically kidnapped and married to Leonard Lemke who was involved in the conspiracy to destroy her parents, the plaintiffs. A letter from his brother in prison was received ordering and indirectly threatening plaintiffs to help Brenda Atraqchi and Leonard Lemke.

8. Plaintiffs believe that Deborah Atrachi was psyched against her family by Dan Ariola through defendants. He mentioned in his letter to her about the IRS. Plaintiffs later were harassed by the IRS.

9. Plaintiffs believe that during 1984 defendants had IRS harass plaintiffs to scare them so that they wouldn't file a suit. Plaintiffs were harassed by the IRS everytime they mentioned filing the Federal Civil suit.

10. Plaintiffs believe there is a conspiracy to forcefully take their properties

and assets through unjust means. Plaintiffs have been threatened that their property will be taken.

11. Plaintiffs believe defendants had plaintiff, Majid Atraqchi, harassed while he travelled in Europe in 1973. Plaintiff had made plans to further his education.

12. Plaintiff, Majid Atraqchi, believe that his civil rights were violated due to his religion. Due to severe harassment flat tires, broken head lights, telephone harassment, etc., Majid Atraqchi seeked help from the FBI in June of 1978. A copy of that report was obtained through the Freedom of Information Act. (However, there are discrepancies on this report) in August of 1981. In August of 1981 plaintiffs seeked the help of the FBI in Washington D.C. per certified letter dated August 5, 1981. However, plaintiffs didn't receive any answer.

13. Plaintiffs believe that defendants had them harassed while travelling in Seattle, Wash., California, and North Dakota to the limit where plaintiffs slept in the car. They were also harassed in Hawaii including telephone harassment.

14. Plaintiffs believe that defendants have prevented them from furthering their education as well as the education of Brenda, their daughter, and limiting the education of their other daughter, Deborah.

15. Plaintiffs believe that defendants have isolated their daughters from their friends of the past to keep them psyched, controlled, and isolated.

16. Plaintiffs believe that defendants have chosen mates for their daughters through psychological manipulation.

17. Plaintiffs believe that defendants have prevented plaintiff, Majid Atraqchi from seeing and contacting his family, nephews, brothers and sisters in this

Country and in Iraq.

17. Plaintiffs believe that defendants have had plaintiffs harassed in all aspects of the plaintiff's life, for example in Billings, in their business, prevented from opening their restaurant, fired from Insurance Companies, and prevented from having a telephone.

18. Plaintiffs believe that defendants have prevented plaintiff, Irene from seeing and talking to her sisters which limits her from seeing her parents.

19. Plaintiffs believe that defendants have indirectly threatened them with cancellation of insurance and driving license.

20. Plaintiffs believe that defendants forcing the plaintiffs to join a conspiracy that they want no part.

21. Plaintiffs believe that defendants have bugged their house to the limit where they are actually writing notes not even whispering.

22. Plaintiffs believe that defendants have involved the entire community or any person that plaintiffs come in contact such as friends, acquaintance were put on a community telephone, where they either gave information or received information and instructions, from grocery stores to business places in the Billings area.

23. Plaintiffs believe the entire family has been studied through the wiretapping by psychologist, psychiatrists and others for the sole purpose of destruction or join the conspiracy.

24. The plaintiffs believe the conspiracy itself is illegal one and one which involves illegal telephone tapping of others for the sole purpose to gain access to the Middle East since missionaries are not allowed into these countries.

25. Plaintiffs believe the conspirators are using foreign students, and immigrants from the Middle East and turn them against

one other, incriminating, them and thereby the defendants are controlling their life and their future. Conspirators could turn them against any person that they deem a danger to them with disregard to life, properties, and the law of the land.

26. Plaintiffs believe that the defendants have plaintiffs harassed to induce them to join the conspiracy. Plaintiffs believe that the trouble will start upon joining the conspiracy, and that the conspirators will use the plaintiffs whereby they will be a tool for the conspirators aims and self destruction will follow.

27. Plaintiffs believe that their daughter Deborah, does whatever the defendants tell her to do. Plaintiffs believe that defendents have used Deborah to destroy relationships with both of the plaintiffs' families and friends.

28. Plaintiffs were told by Geney Dilley, Leonard Dahl and Mohammed D. Mohammed to

go to church.

29. Plaintiffs believe that defendant, Mumtaz Fargo, is using wiretapping as a revenge method.

30. Plaintiffs believe that defendants are using inhumane methods on both families of the plaintiffs by using methods such as fear, rage, threats, and etc. (Also blackmail).

31. Plaintiffs believe that their daughter, Brenda, who is a dyslexic has been treated badly. She has been harassed, isolated from her friends and family, forced to leave Billings against her will in August, put into difficult living circumstances economically and emotionally, since she was taken from the plaintiffs.

32. Plaintiffs believe that defendants are destroying plaintiffs' daughters to punish their father, because he was born a Moslem.

33. Plaintiffs believe that it is inhumane

to agonize Irene Atraqchi's aging parents by having their daughters separated from them by psychological means.

34. Plaintiffs believe that defendants want to setup and incriminate the plaintiff Mike Atraqchi so that he will join the Conspiracy by force or to make him crazy.

35. Plaintiffs believe that defendants tried to setup Mike Atraqchi in 1978 for assault and battery. (#13 of Complaint)

36. Plaintiffs believe that defendants are isolating plaintiffs nephew, Kevin Carter who is a minor. He has been harassed since the 8th grade.

37. Plaintiffs have reason to believe that certain Christain denominations are using psychology and the law to convert Moslems to Christianity.

38. Plaintiffs have reason to believe that there is a mail cover on the plaintiffs' mail.

39. Plaintiffs have reason to believe that

plaintiffs two daughters and nephews are held as hostages whereby the plaintiff could be blackmailed to join the conspiracy.

CONCLUSIONS OF LAW

1. Court has jurisdiction to hear this case.

2. There is a basis to believe plaintiffs have been religiously harassed through wiretapping.

3. There is a basis to believe plaintiffs have suffered economic injury.

4. There is a basis to believe plaintiffs have suffered emotional and physical injury due to psychological kidnapping of their daughter, Brenda,and consequently to marry a man involved in the conspiracy to destroy her family by psychological means.

5. There is a basis to believe that plaintiffs were deprived of association.

6. There is a basis to believe that plaintiffs were subject to unreasonable

search of their home, effects, things, and persons without warrant, reason, or cause.

7. There is a basis to believe that plaintiffs were deprived from life, liberty and pursuit of happiness.

8. There is basis to believe a misuse and excessive power was used on the plaintiffs and their families by the federal government.

9. There is basis to believe that the silence on the part of the defendants is tantamount to a force of guilt.

ORDER

1. That all defendants be enjoined from wiretapping the residence and any business of plaintiffs.

2. That all defendants stop all psychological manipulation and pressure on both of plaintiffs' entire families here and abroad including their two daughters.

3. That all defendants stop all psycho-

logical manipulation on all people who the plaintiffs come in contact with as well as tenants or business associates.

4. That plaintiffs and their two daughters be protected from any psychological manipulation of any kind, form or shape caused by the defendants.

5. That plaintiffs have freedom to sell property without any interference.

6. That defendants stop all interference through psychology enabling plaintiffs to seek legal help in order that they may proceed with the discovery period without any harassment of whatsoever nature.

7. Tha plaintiffs receive all mail without any mail tampering.

8. That plaintiffs' freedom is restored which is guaranteed under the Constitution of the United States.

9. That defendants stop the interference with plaintiffs' business, education, and

association.

10. That plaintiffs have freedom to travel without surveillance or interference.

11. That defendants stop all electronical surveillance, people surveillance, and wiretapping.

12. That defendants stop defaming the plaintiffs' characters and stop circulating tapes and that defendants stop using other parties (co-conspirators) to do this.

13. That plaintiffs be allowed to sell Insurance Companies comparable to his orignal Companies.

James F. Battin
Chief Justice, District of Montana

Note: Exhibits (Letters, reports, tape, and pictures) of facts were submitted that are vital to the case at the Preliminary Hearing; and it was recorded in the Court transcript. All of these records were transferred to Court of Appeals. We have no way to obtain at this time. The Supreme Court on its own discretion could obtain these records.

Again, the plaintiffs in the above entitled caseare pro se and requested appointment of counsel to assist with remainder of this action at plaintiffs own expense so justice could be done.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA - BILLINGS DIVISION

MAJID RASHEED (MICHAEL) ATRAQCHI AND IRENE S. ATRAQCHI Plaintiffs vs. FOUR UNKNOWN NAMED AGENTS OF FBI et al. Defendants	CV 84-256 PLAINTIFFS' RESPONSIVE REPLY TO MOUNTAIN BELL'S MOTION FOR MORE DEFINITE STATEMENT

Plaintiffs' responsive reply to Mountain Bell's Motion to Dismiss is based on the following grounds:

1. Complaint is intelligible, informative, concise, and direct.

2. The motion For More Definite Statement is disfavored, since it is solely being used for delay, in violation of man-

date found in Rule 1 of Federal Rules of Civil Procedure. Plaintiffs respectfully request the Court to overrule this motion. Said opposition is based on the following:

All the defendants have ignored the subject of wiretapping. Paragraph 2 and 15 include Mountain Bell as a defendant, and it is very clear that these paragraphs indicate interception and transmission of oral communications through wiretapping. Paragraph 2 specifically indicates a conspiracy of telephone tapping as in the following cases: Berger v New York, 388 US 41, 1967; Katz v. US. 389 US 347 (1967); Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics 403 US 388 (1971); Wright v. Florida 495 F2d 1086 (5th Cir., 1974); Abramson v. Mitchell 459 F2d 955 (8th Cir., 1972). Wiretapping is a violation of plaintiffs' Fourth Amendment. A cause of action can be implied under the Fourth Amendment with jurisdiction based

upon the federal question statute, 28 USCS 1331. As in the Wright v. Florida 495 F2d 1086 (5th Cir., 1974) case it was held that the right to be free from unauthorized wiretapping, being one aspect of the right to be free from unreasonable searches and seizures, is a civil right, within the purview of 28 USCS 1343 (4), and that the District Court has jurisdiction to hear plaintiff's claim under 18 USCS 2520 (Chapter 119).

As a result of the wiretapping, plaintiffs received injury. The plaintiffs experienced a violation of their civil rights in the following economic injuries: lost profits, lost opportunity to engage in a business enterprise, restriction of one's ability to dispose of one's property or utilize to the fullest of one's ability as in the following cases: Association of Date Processing Service Organizations, Inc. v. Camp, 397 US 150,; Arlington Heights v.

Metropoliton Housing Development Corp., 429 US 252, and Andrus v Allard, 444 US 51.

As a result of the wiretapping, plaintiffs also received personal injury which was in violation of plaintiffs' civil rights. The injuries are as follows: disintegration of family; loss of one's freedom to speak; loss of one's freedom to religion; loss of freedom from search and seizure (excessive electronic surveillance); loss of the right to be represented by legal counsel; loss of freedom to be secure in persons, house, papers, and effects; loss of freedom in pursuit of life, liberty, and property.

The degree of the participation by each defendant is unknown until the records of the Telephone Company are obtained, and then the true facts will show. The validity of the defense is not determined conclusively by the pleadings, and plaintiffs should have the opportunity to prove their

case as in the following cases: Abramson v. Mitchell, 459 F2d 955, (8th Circuit, 1972) and Wright v. Florida, 495 F2d 1086, (5th Cir., 1974).

Federal Rules of Civil Procedure do not require claimant's complaint to set out in detail facts upon which plaintiff bases his claim; all that is required is a plain statement of claim that will give defendant fair notice of what plaintiff's claim is and grounds upon which it rest, as in Conley v. Gibson, 355 US 41 (1957).

Law in general has never been that plaintiffs' action must fail because, when he begins his suit, he does not know enough about his cause of action to establish it forthwith by competent evidence, nor, having pleaded cause of action, was plaintiff ordinarily denied right to amend by application, or by adding specific instances, coming within ambit of cause of action which he may

have set forth in his complaint as in the case of Bowles v Pure Oil Co 5 FRD 300 (1946).

Court has forceful argument for elimination of Rule 12 (e) since this motion is often used solely for delaying case as in Blane v. Losh 10FRD 273 (1950).

CERTIFICATE OF MAILING

We, Majid Rasheed (Michael) Atraqchi and Irene S. Atraqchi, (Pro se), do hereby certify that on the 29th day of January, 1985 we served a copy of the foregoing instrument by mailing a true and correct copy thereof first class postage prepaid to:

David Hoefer, Deputy County Attorney
Yellowstone County Courthouse
Billings, Montana 59101
Dennis Lopach, MT States T & T
P.O. Box 1716
Helena, Montana 59624

Laurence Weinberg, Assistant Chief Counsel

Montana University System

33 South Last Chance Gulch

Helena, Montana 59620-2602

James E. Seykora

Assistant U.S. Attorney

P.O. Box 1478

Billings, Montana 59103

Majid Rasheed (Michael) Atraqchi

Irene S. Atraqchi

Republic National Life Insurance Co.
3988 North Central Expressway
Dallas, Texas 75204

March 7, 1984

Mike R. Atraqchi
645 Main
Billings, Montana 59105

Dear Mr. Atraqchi:

Re: Cancellation of your General Agent's Contract effective: 3-22-84

Due to the fact that your production is below the mimimum required to maintain a General Agent's contract, your contract will be cancelled on the above date.

Please return all Company supplies to the Company Superintendent representing your area.

We are glad to have had the association with you, and if we can be of service to you in the future, please let us know.

Sincerely yours,

Jack Longrear

Vice-President

cc: William D. Shaw, CLU

Note: This letter submitted as one of the letters in Exhibit # 2 to the Court.

EXHIBITS SUBMITTED TO THE COURT

A. Letters of lawyers, Copies of checks (Lawyers contacted)

A-1 Pages from Fargo's Thesis

B- Loss of Insurance Companies that plaintiff represented-letters and list of income loss

C Final Bill showing plaintiffs telephones removed. Letters of customers trying to reach plaintiffs.

D Pictures of Building for restaurant

E Tried to Sell Property and Leave Area Real Estate Magazine and contracts

F Copy of form showing withdrawal from Eastern Montana College by Irene Atraqchi.

G Dale Smiths letter from federal penitentiary indirectly threatening plaintiffs to support his brother.

H Letter of Dan Ariola turning plaintiffs' daughter against her father.

I. IRS Correspondence

J. FBI Report dated June, 1978 reporting

harassment.

K- Harassment- Mispelling of Name

L- Harassment- Copy of letters on house and car insurance- cancellation

M- Confidential Letter from Nephew showing harassment to him and a form of inducing.

N Mountain Bell Correspondence about Plaintiffs telephone being tapped.

O Tape of Hensley, from Police Detective Division showing setup for assault and Battery trying incriminate plaintiff, Atraqchi, investigation was suppressed.

IMPORTANT- The above exhibits substantiate the facts given in the plaintiffs' complaint.